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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,716	09/18/2003	Stefan Karlinger	71129	4410
23872	7590	03/09/2006		
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			EXAMINER DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/664,716	KARLINGER, STEFAN	
	Examiner	Art Unit	
	Aaron M. Dunwoody	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/2006 has been entered.

### ***Election/Restrictions***

Newly submitted claim 28 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original invention was a device, not an industrial robot flexible hose holding arrangement comprising an industrial robot.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 28 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Objections***

Claim 2 is objected to because of the following informalities:

Claim 2, lines 4 and 6, delete second appearance of "holding". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 3934902, McNamee in view US patent 6595473, Aoki et al.

In regards to claims 1 and 26, McNamee discloses a device for holding a flexible hose (12), comprising:

a holding part (50);

at least one holding means (18, 20) with a holding surface area for axially holding of the flexible hose; and

at least one one-sided support surface area (36) surrounding the flexible hose and extending towards a free end of the flexible hose, the flexible hose being non-rotatably fixed to the holding area and the holding area being rotatably connected to the holding part. McNamee does not disclose the support area having an inner curved surface extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end towards the direction of the free end of the flexible hose. Aoki et al teach a support area (63) having an inner curved surface (65) extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible (col. 12, lines 55-57). As

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Aoki et al relates to a fixing structure for a corrugated tube, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a extension extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible, as taught by Aoki et al.

In regards to claim 2, McNamee in view of Aoki et al disclose the holding area having a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs (32, 36), the inner curved surface of the support surface area having a decreasing radius of curvature from a location adjacent to the holding surface area to the expanded diameter end, the decreasing radius being one of progressively decreasing and comprising a first radius of curvature adjacent to the holding section followed by a smaller radius of curvature adjacent to the expanded outer diameter end.

In regards to claim 3, McNamee discloses the holding area further comprising an application area (28) for applying the device to a holding part (50).

In regards to claim 4, McNamee discloses the holding part being constructed as a fixing clamp or clip.

In regards to claim 5, McNamee discloses the section application having an outer annular groove.

In regards to claims 6, McNamee discloses an inwardly directed lug (threads of 50) of the holding part engages the annular groove.

In regards to claim 7, McNamee discloses a construction with at least two partial shells (half- shells) (22).

In regards to claim 8, McNamee discloses the partial shells being screwed together (when inserted into 50).

In regards to claim 23, Aoki et al disclose a inner part radius of curvature (R1) of expansion of an inner part of the support area is of the same order of magnitude as a minimum bending radius of the flexible hose minus half the diameter of the flexible hose.

In regards to claim 24, Aoki et al disclose a support area end radius of curvature (R2) of the support area is smaller than the inner part radius of curvature (R1) to provide an edgeless transition.

In regards to claim 25, Aoki et al disclose the support area end radius of curvature (R2) is 10% to 20% of the inner part radius of curvature (R1).

In regards to claim 27, McNamee in view of Aoki et al disclose the decreasing radius of curvature comprises a larger radius of curvature section adjacent to said holding section followed by a smaller radius of curvature section adjacent to said expanded outer diameter end; and the holding area 11% a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs and said holdable outer surface is a ribbed hose surface cooperating with said annular ribs to rotationally and axially hold said free end at said holding area.

### ***Response to Arguments***

Applicant's arguments filed 1/27/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., use with a robot) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as Aoki et al relates to a fixing structure for a corrugated tube, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a extension extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible, as taught by Aoki et al.

In response to applicant's argument that neither McNamee nor Aoki et al teach the flexible hose being able to roll over as it changes its orientation relative to the holding part, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably

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distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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